

## FINANCING OF EDUCATIONAL AND CULTURAL PROGRAM

*Agreement signed at Canberra November 26, 1949*

*Entered into force November 26, 1949*

*Article 5 amended by agreement of September 3, 1954<sup>1</sup>*

*Superseded by agreement of August 28, 1964<sup>2</sup>*

64 Stat. B39; Treaties and Other  
International Acts Series 1994

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF AUSTRALIA FOR THE USE OF FUNDS MADE AVAILABLE IN ACCORDANCE WITH THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF AUSTRALIA ON SETTLEMENT FOR LEND-LEASE, RECIPROCAL AID, SURPLUS WAR PROPERTY AND CLAIMS SIGNED AT WASHINGTON AND NEW YORK ON JUNE 7, 1946.

The Government of the United States of America and the Government of Australia;

Desiring to promote further mutual understanding between the peoples of the United States of America and Australia by a wider exchange of knowledge and professional talents through educational contacts;

Considering that Section 32(b) of the United States Surplus Property Act of 1944, as amended by Public Law No. 584, 79th Congress,<sup>3</sup> provides that the Secretary of State of the United States of America may enter into an agreement with any foreign government for the use of currencies or credits for currencies of such foreign government acquired as a result of surplus property disposals for certain educational activities; and

Considering that under the provisions of Article 3 of the Agreement between the Government of the United States of America and the Government of Australia on Settlement for Lend-Lease, Reciprocal Aid, Surplus War Property, and Claims signed at Washington and New York on June 7, 1946<sup>4</sup> (hereinafter designated "the Settlement Agreement"), it is provided that the

<sup>1</sup> 5 UST 1931; TIAS 3060.

<sup>2</sup> 15 UST 1689; TIAS 5643.

<sup>3</sup> 60 Stat. 754.

<sup>4</sup> TIAS 1528, *ante*, p. 164.

Government of Australia, in discharge of the pre-existing commitment to compensate the Government of the United States for the post-war value of machine tools transferred during the war to the Commonwealth of Australia by the Government of the United States under lend-lease, and in consideration of the post-war value of other capital equipment transferred during the war under lend-lease, including certain specified non-combat aircraft and spare parts therefor, and the transfer of certain surplus property, and in order to further educational and cultural relationships between the two countries by means of scholarships or otherwise in a manner mutually agreeable, will pay to the Government of the United States the sum of \$27,000,000 as follows:

(a) \$20,000,000 in United States dollars within ninety days from the effective date of the Settlement Agreement; and

(b) \$7,000,000 by any of the following methods, or any combination thereof designated by the Government of the United States (employing the rate of exchange between United States dollars and Australian pounds in effect on the date of signature of the Settlement Agreement) :

(i) By delivery to the Government of the United States by the Commonwealth of Australia of title to real property and improvements of real property in Australia, as selected and determined by agreement between the two Governments, aggregating in value not more than \$2,000,000;

(ii) By establishment of a fund in Australian pounds for expenditure by the Government of the United States, in accordance with agreements to be reached between the two Governments for carrying out educational and cultural programmes of benefit to the two countries,

HAVE AGREED AS FOLLOWS:

#### ARTICLE 1

There shall be established a foundation to be known as the United States Educational Foundation in Australia (hereinafter designated "the Foundation"), which shall be recognized by the Government of the United States of America and the Government of Australia as an organization created and established to facilitate the administration of the educational programme to be financed by funds made available by the Government of Australia under the terms of the Settlement Agreement of June 7, 1946, and the present agreement. Except as provided in Article 3 hereof the Foundation shall be exempt from the domestic and local laws of the United States of America as they relate to the use and expenditure of currencies and credits for currencies for the purposes set forth in the present agreement.

All of the funds made available by the Government of Australia, within the conditions and limitations hereinafter set forth, shall be used by the Foundation or such other instrumentality as may be agreed upon by the Govern-

ment of the United States of America and the Government of Australia for the purpose, as set forth in Section 32(b) of the United States Surplus Property Act of 1944, as amended, of

(1) financing studies, research, instruction and other educational activities of or for citizens of the United States of America in schools and institutions of higher learning located in Australia or of the citizens of Australia in United States schools and institutions of higher learning located outside the continental United States, Hawaii, Alaska (including the Aleutian Islands), Puerto Rico, and the Virgin Islands, including payment for transportation, tuition, maintenance, and other expenses incident to scholastic activities; or

(2) furnishing transportation for citizens of Australia who desire to attend United States schools and institutions of higher learning in the continental United States, Hawaii, Alaska (including the Aleutian Islands), Puerto Rico, and the Virgin Islands and whose attendance will not deprive citizens of the United States of America of an opportunity to attend such schools and institutions.

## ARTICLE 2

In furtherance of the aforementioned purposes, the Foundation may, subject to the provisions of Article 10 of the present agreement, exercise all powers necessary to the carrying out of the present agreement including the following:

(1) Receive funds.

(2) Open and operate bank accounts in the name of the Foundation in a depository or depositories to be designated by the Secretary of State of the United States of America.

(3) Disburse funds and make grants and advances of funds for the authorized purposes of the Foundation.

(4) Acquire, hold, and dispose of property in the name of the Foundation as the Board of Directors of the Foundation may consider necessary or desirable, provided however that the acquisition of any real property shall be subject to the prior approval of the Secretary of State of the United States of America.

(5) Plan, adopt, and carry out programmes in accordance with the purposes of Section 32(b) of the United States Surplus Property Act of 1944, as amended, and the purposes of the present agreement.

(6) Recommend to the Board of Foreign Scholarships provided for in the United States Surplus Property Act of 1944, as amended, students, professors, research scholars, resident in Australia and institutions of Australia qualified in the opinion of the Foundation to participate in the programmes in accordance with the aforesaid Act.

(7) Recommend to the aforesaid Board of Foreign Scholarships such qualifications for the selection of participants in the programmes as it may

deem necessary for achieving the purpose and objectives of the Foundation.

(8) Provide for periodic audits of the accounts of the Foundation as directed by auditors selected by the Secretary of State of the United States of America.

(9) Engage administrative and clerical staff and fix and pay the salaries and wages thereof.

#### ARTICLE 3

All expenditures by the Foundation shall be made pursuant to an annual budget to be approved by the Secretary of State of the United States of America pursuant to such regulations as he may prescribe.

#### ARTICLE 4

The Foundation shall not enter into any commitment or create any obligation which shall bind the Foundation in excess of the funds actually on hand nor acquire, hold, or dispose of property except for the purposes authorized in the present agreement.

#### ARTICLE 5

The management and direction of the affairs of the Foundation shall be vested in a Board of Directors consisting of seven Directors (hereinafter designated the "Board").

The principal officer in charge of the Diplomatic Mission of the United States of America to Australia (hereinafter designated "the Chief of Mission") shall be Honorary Chairman of the Board and shall cast the deciding vote in the event of a tie vote by the Board. The remaining members of the Board shall be as follows:

(a) three citizens of the United States, of whom at least two shall be officers of the Foreign Service establishment in Australia, and

(b) three citizens of Australia. One of the United States members shall serve as deputy chairman and one shall serve as treasurer. The United States citizens on the Board shall be appointed and removed by the Chief of Mission. The Australian members on the Board shall be appointed and removed by the Minister of State for External Affairs and the Chief of Mission acting together.

The members shall serve from the time of their appointment until one year from the following December 31 and shall be eligible for re-appointment. Vacancies by reason of resignation, transfer of residence outside Australia, expiration of term of service, or otherwise shall be filled in accordance with this procedure. The members shall serve without compensation, but the Foundation is authorized to pay the necessary expenses of the members in attending meetings of the Board.

## ARTICLE 6

The Board shall adopt such by-laws and appoint such committees as it shall deem necessary for the conduct of the affairs of the Foundation.

## ARTICLE 7

Reports as directed by the Secretary of State of the United States of America shall be made annually on the activities of the Foundation to the Secretary of State of the United States of America and the Government of Australia.

## ARTICLE 8

The principal office of the Foundation shall be in Canberra, but meetings of the Board and any of its committees may be held in such other places as the Board may from time to time determine, and the activities of any of the Foundation's officers or staff may be carried on at such places as may be approved by the Board.

## ARTICLE 9

The Board may appoint an Executive Officer and determine his salary and term of service provided, however, that in the event it is found to be impracticable for the Board to secure an appointee acceptable to the Chairman, the Government of the United States of America may provide an Executive Officer and such assistants as may be deemed necessary to ensure the effective operation of the programme. The Executive Officer shall be responsible for the direction and supervision of the Board's programmes and activities in accordance with the Board's resolutions and directives. In his absence or disability, the Board may appoint a substitute for such time as it deems necessary or desirable.

## ARTICLE 10

The decisions of the Board in all matters may, in the discretion of the Secretary of State of the United States of America, be subject to his review.

## ARTICLE 11

The Government of Australia shall, as and when requested by the Government of the United States of America for the purposes of this agreement, make available to the Treasurer of the United States of America amounts of currency of the Government of Australia up to an aggregate amount equivalent to \$5,000,000 (United States currency) provided however that in no event shall a total amount of the currency of the Government of Australia in excess of the equivalent of \$500,000 (United States currency) be deposited during any single calendar year. The rate of exchange between the currency of the Government of Australia and United States currency to be

used in determining the amount of currency of the Government of Australia to be made available from time to time hereunder shall be determined in accordance with paragraph 3 of the Settlement Agreement of June 7, 1946.

The request of the Government of the United States of America that a deposit be made for the general purposes of the present agreement shall be accepted by the Government of Australia as sufficient basis on which to effect the deposit and shall not be subjected to the requirement of any detailed statements, estimates or justifications concerning the ultimate expenditure of the funds for specific programmes, which ultimate expenditure is for determination by the Foundation subject to the approval of the Secretary of State of the United States of America.

The Secretary of State of the United States of America will make available to the Foundation currency of the Government of Australia in such amounts as may be required by the Foundation but in no event in excess of the budgetary limitations established pursuant to Article 3 of the present agreement.

#### ARTICLE 12

Furniture, equipment, supplies, and any other articles intended for official use of the Foundation shall be exempt in the territory of Australia from customs duties, excises, surtaxes, and every other form of taxation.

All funds and other property used for the purposes of the Foundation, and all official acts of the Foundation within the scope of its purposes shall likewise be exempt from taxation of every kind in Australia.

#### ARTICLE 13

The Government of Australia shall exempt from Australian income taxes and social service contributions all grants by the Foundation from the funds specified in Article 11 of this agreement, unless and until the Government of the United States of America fails to grant similar exemptions to grants made by the Australian Government from its funds to recipients in the United States.

#### ARTICLE 14

Wherever, in the present agreement, the term "Secretary of State of the United States of America" is used, it shall be understood to mean the Secretary of State of the United States of America or any officer or employee of the Government of the United States of America designated by him to act in his behalf.

#### ARTICLE 15

The present agreement may be amended by the exchange of diplomatic notes between the Government of the United States of America and the Government of Australia.

ARTICLE 16

The Government of the United States of America and the Government of Australia shall make every effort to facilitate the programme authorized in this agreement and to resolve problems which may arise in the operation thereof.

ARTICLE 17

The present agreement shall come into force upon the date of signature.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed the present agreement.

DONE at Canberra in duplicate, this twenty-sixth day of November, 1949.

For the Government of the United States of America:

PETE JARMAN

For the Government of Australia:

H. EVATT